

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CRIMINAL APPLICATION No. 1234 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the Civil Judge?

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CHHABHAIYA AMRUTLAL RAVJIBHAI & 3 - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR MEHUL M MEHTA for Applicant(s) : 1 - 4.
 MR MR MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
 NOTICE UNSERVED for Respondent(s) : 2,
 MR JV JAPPEE for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 07/09/2007

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India read with Section 482 of

the Criminal Procedure Code, the petitioners - original accused have prayed for an appropriate order quashing and setting aside the Criminal Proceedings of M.Case/Criminal Inquiry No. 5 of 2007 pending in the Court of learned Additional Chief Judicial Magistrate, Anjar - Kutch.

2. Mr.Japee, learned Advocate appearing on behalf respondent No.3 - original complainant has submitted that in view of the subsequent development and as daughter - 'Mittal' has returned to respondent No.3's residence, respondent no.3 would not like to proceed further with the complaint with a liberty to initiate appropriate proceedings for annulment of the marriage between 'Mittal' and petitioner No.4. He has also submitted that without prejudice to the rights and contentions and to challenge the marriage and/or initiate appropriate proceedings for annulment of the said marriage, if the complaint in question is quashed and set aside, respondent No.3 would not have any objection.

3. Under the circumstances and in the peculiar facts and circumstances of the case without citing

the same as precedent and in view of the above, impugned complaint being M.Case/ Criminal Inquiry No. 5 of 2007 pending in the Court of learned Additional Chief Judicial Magistrate, Anjar Kutch is hereby quashed and set aside. However, it is observed that aforesaid would be without prejudice to the rights of respondent No.3 and/or his daughter 'Mittal' to initiate appropriate proceedings before the appropriate Court or annulment of marriage between 'Mittal' and petitioner No.4. As and when such proceedings are initiated, same shall be considered in accordance with law and on its own merits without in any way being influenced by the present order of quashing the impugned complaint. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R.Shah, J.]

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